

EXHIBIT 1

INTRODUCTION

Respondent Deborah Orlik has been a member of the La Canada Flintridge City Council (the “City Council”) for three years. As a public official, Respondent was prohibited by Government Code section 87100 of the Political Reform Act (the “Act”)¹ from making, participating in making, or using her official position to influence any governmental decision in which she had a financial interest.

In 1999, Respondent attended a closed session meeting of the City Council regarding a lawsuit against the City of La Canada Flintridge (the “City”), in which her spouse’s law firm represented the real party in interest. During the closed session meeting, Respondent voted with other members of the City Council on whether to settle the lawsuit. By voting on whether to settle the lawsuit, Respondent made a governmental decision, in which she had a financial interest.

For the purposes of this Stipulation, Respondent’s violation is stated as follows:

On April 12, 1999, as a member of the La Canada Flintridge City Council Respondent, Respondent made a governmental decision in which she had a financial interest, by voting in closed session on whether to settle a lawsuit in which her spouse’s law firm represented the real party in interest, in violation of Section 87100.

SUMMARY OF THE LAW

A finding upon which the Act is based is that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001, subd. (b).) Accordingly, one of the stated purposes of the Act is that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, and in appropriate circumstances, that the officials disqualify themselves from acting, so that conflicts of interest may be avoided. (Section 81002, subd. (c).)

In order to accomplish this purpose, Section 87100 prohibits state and local public officials from making, participating in making or using their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest.

Section 82048 defines a “public official” as every member, officer, employee or consultant of a

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, sections 18109 through 18997. All regulatory references are to Title 2, Division 6, of the California Code of Regulations.

state or local government agency. A public official “makes a governmental decision” when, acting within the authority of his or her office or position, the official votes on a matter. (Regulation 18702.1, subd. (a)(1).)

Section 87103, as it existed in 1999, provided that a public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on a source of income of \$250 or more, provided, promised to, or received by the official within 12 months before the decision. (Section 87103, subd. (c).) Section 82030 defines “income” as including any community property interest that an official may have in the income of his or her spouse.

Under Regulation 18704.1, subdivision (b), a business entity is indirectly involved in a decision when that entity is not a named party in, or the subject of the decision. Regulation 18705.1, subdivision (b), as it existed in 1999, sets forth the materiality standards that apply to businesses that are indirectly involved in a decision. For relatively small businesses, Regulation 18705.1, subdivision (b)(7), provided that the effect of a decision is material if the decision will result in: (1) an increase or decrease in the entity’s gross revenues for a fiscal year of \$10,000 or more; or (2) the business incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more; or (3) an increase or decrease in the value of assets or liabilities of \$10,000 or more.

Although certainty is not required, a financial effect is considered reasonably foreseeable if there is a substantial likelihood that it will occur. (Reg. 18706.) If an effect is only a mere possibility, it is not reasonably foreseeable. (*In re Thorner* (1975) 1 FPPC Ops. 198.)

SUMMARY OF THE FACTS

Respondent Deborah Orlik has been a member of the La Canada Flintridge City Council since 1998. As a member of the City Council, Respondent was a public official who was prohibited from making, participating in making, or using her official position to influence any governmental decision in which she had a financial interest.

In 1999, Respondent’s spouse, Randy Orlik, was a partner in the law firm Cox, Castle & Nicholson. Mr. Orlik had less than a 5 percent interest in the law firm. In March and April 1999, the law firm Cox, Castle & Nicholson was a source of income to Respondent of \$250 or more, by virtue of her community property interest in the income of her spouse.

In February 1999, the Sport Chalet project was pending before the City Council. The applicant, Arthur Pearlman, requested that the City approve the construction of a \$32 million shopping center. A group called “Friends of 91011” requested that the City reject the project. On March 1, 1999, the City Council approved the Sport Chalet project. Immediately after the City’s approval of the project, on March 15, 1999, Friends of 91011 filed a lawsuit against the City, and

Arthur Pearlman as the real party in interest.² The law firm, Cox, Castle & Nicholson represented Mr. Pearlman in the lawsuit.

On April 12, 1999, the City Council met in closed session to discuss the pending litigation. At the meeting, Respondent, along with other members of the City Council, voted on whether to make a settlement offer to Friends of 91011 and Arthur Pearlman. On May 11, 1999, the three parties to the lawsuit reached a settlement.

When Respondent voted on whether to settle the lawsuit, it was reasonably foreseeable that the decision would have at least a \$10,000 material financial effect on the gross revenues of Cox, Castle and Nicholson, her spouse's employer. If the lawsuit settled, it was reasonably foreseeable, under the law firm's billing structure, that the law firm would lose \$10,000 or more in potential legal fees by virtue of the settlement. On the other hand, if the lawsuit did not settle, and the case proceeded to trial, it was reasonably foreseeable that the law firm would receive \$10,000 or more in legal fees as result of the continuing litigation.

Therefore, by failing to disqualify herself from the closed session meeting, Respondent made a governmental decision that had a reasonably foreseeable material financial effect on a disqualifying source of income, in violation of Section 87100.

CONCLUSION

This matter consists of one count, which carries a maximum possible administrative penalty of Two Thousand Dollars (\$2,000). Because Respondent's violation affected the gross revenues of her spouse's employer and occurred during a closed session meeting, it is a very serious violation. Accordingly, the facts of this case justify imposition of the agreed upon penalty of Two Thousand Dollars (\$2,000).

² Friends of 91011 v. City of La Canada Flintridge (Super Ct. L.A. County, 1999, No. BSO56120).